



**TO:** State Workforce Innovation Council Chairperson  
Marion County Workforce Investment Board Chairperson & Director  
Regional Workforce Board Chairpersons  
Regional Operators  
Directors of Operations for Northern and Southern Indiana

**FROM:** Teresa L. Voors *TV*  
Commissioner, Indiana Department of Workforce Development

**THROUGH:** Dustin Stohler *DD S*  
Deputy Commissioner, Legal Affairs and Administration

**DATE:** April 4, 2008

**SUBJECT:** DWD Policy 2007-30  
Ensuring Nondiscrimination and Equal Opportunity to Persons with Disabilities  
Participating in Programs and Activities in the WorkOne Delivery System

**Purpose**

To ensure nondiscrimination and equal opportunity to persons with disabilities participating in programs and activities operated by Local Workforce Investment Area (LWIA) grant recipients that are part of the WorkOne delivery system.

**Rescission**

DWD Communication 2000-32, dated May 1, 2001

**Contents**

Section 188 and its implementing regulations, 29 CFR Part 37, contain the regulatory requirements on accessibility to the workforce investment system for individuals with disabilities. While 29 CFR specifically addresses the workforce investment system, it incorporates section 504 by reference and includes standards contained in the American with Disabilities Act of 1990 ("ADA").

This policy guidance defines the requirements under the applicable mandates for meeting the assurances for providing access to individuals with disabilities. The requirement to ensure that qualified individuals with disabilities are not discriminated against in the workforce investment system is applicable to the aid, benefits, services, or training that are provided directly by the WorkOne offices, as well as those operated or provided by another entity on behalf of the local workforce investment area.

## **COVERED INDIVIDUALS**

Under the ADA, a person is “disabled” if s/he (1) has a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (2) has a record of such impairment; or (3) is regarded as having such an impairment.

For employment purposes, an individual with a disability is protected under the law if that individual is qualified with or without a reasonable accommodation and is capable of performing the essential functions of a specific job. With respect to training programs, an individual is a qualified individual with a disability if s/he meets the essential eligibility requirements for the receipt of such aid, benefits, services or training.

## **NOTICE AND COMMUNICATION**

Recipients must provide initial and continuing notice that they do not discriminate on any prohibited ground. This notice must be provided to registrants, applicants, and eligible applicants/registrants; participants; applicants for employment and employees; unions or professional organizations that hold collective bargaining or professional agreements with the recipient; subrecipients that receive WIA Title I funds from the recipient; and members of the public, including those with impaired vision or hearing.

- ◆ Recipients must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others.
- ◆ Recipients must indicate that the WIA Title I funded program or activity in question is an “equal opportunity employer/program,” and that “auxiliary aids and services are available upon request to individuals with disabilities.” Recipients that publish or broadcast program information in the news media must ensure that such publications and broadcasts state the same.
- ◆ At a minimum, the Equal Opportunity notice must be posted prominently, in reasonable numbers and places; disseminated in internal memoranda and other written or electronic communications; included in handbooks or manuals; made available to each participant, and made part of each participant’s file. The notice must be provided in appropriate formats to individuals with visual impairments. Where notice has been given in an alternative format to a participant with a visual impairment, a record that such notice has been given must be made a part of the participant’s file.
- ◆ Where marketing, recruitment, and other materials indicate that the recipient may be reached by telephone, the materials must state the telephone number of the TDD/TTY or relay service used by the recipient.

## **REASONABLE MODIFICATIONS AND ACCOMMODATIONS**

Recipients must provide reasonable modifications and accommodations regarding registration for and the provision of aid, benefits, services or training, including core, intensive, training, and support services to qualified individuals with disabilities.



### **INTEGRATED SETTING**

Recipients must administer its programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

- ◆ Recipients must not provide different, segregated, or separate aid, benefits, services, or training to individuals with disabilities or any class of individuals with disabilities unless such action is necessary to provide qualified individuals with disabilities with aid, benefits, services, or training that are as effective as those provided to others.
- ◆ Recipients must permit a qualified individual with a disability the opportunity to participate in WIA Title I funded programs and activities despite the existence of permissibly separate or different programs or activities.

### **EFFECTIVE COMMUNICATION**

Recipients must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others.

- ◆ A recipient must furnish appropriate auxiliary aids or services where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, the WIA Title I funded program or activity.
- ◆ In determining what type of auxiliary aid or service is appropriate and necessary, each recipient must give primary consideration to the requests of the individual with a disability.
- ◆ Where a recipient communicates by telephone with beneficiaries and others, the recipient must use telecommunications devices for individuals with hearing impairments (TDDs/TTYs), or equally effective communications systems.
- ◆ Recipients must ensure that interested individuals, including individuals with visual and hearing impairments, can obtain information as to the existence or location of accessible services, activities, and facilities, including the provision of appropriate signage at the primary entrances to its inaccessible facilities.

### **ARCHITECTURAL ACCESSIBILITY**

Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by qualified handicapped individuals.

- ◆ Each facility which is altered by, on behalf of, or for the use of a recipient in a manner that affects or could affect the usability of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by qualified handicapped individuals.
- ◆ Design, construction, or alteration of facilities must meet the most current standards for physical accessibility prescribed by the General Services Administration under the Architectural Barriers Act at 41 CFR 101-19.6. Alternative standards may be adopted when it is clearly evident that equivalent or greater access to the facility is thereby provided.

### **EMPLOYMENT PRACTICES**

Discrimination on the grounds of disability is prohibited in employment practices in the administration of, or in connection with, any WIA Title I funded program or activity and any program or activity that is part of the WorkOne delivery system.



### **Job Qualifications**

- ◆ Recipients shall provide for, and shall adhere to, a schedule for the review of the appropriateness of all job qualifications to ensure that they do not use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability on the basis of that disability, unless the standard, test or other selection criteria, as used, is job-related for the position in question and consistent with business necessity.
- ◆ For employment-related training, recipients must review selection criteria to ensure that they do not screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying the training unless the criteria can be shown to be necessary for the training being offered.
- ◆ For employment and employment-related training, recipients must select and administer employment and training tests that, when administered to an individual with a disability that impairs sensory, manual, or speaking skills, accurately reflect the skills, aptitude, or other factors that the test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of the individual.

### **Preemployment Medical Exams or Inquiries**

- ◆ Recipients may not conduct preemployment medical examinations or make preemployment inquiry of an applicant for employment or training as to whether the applicant is a handicapped person or as to the nature or the severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

### **REPORTING VIOLATIONS**

Violations of this policy should be reported in accordance with DWD Policy 2007-10, the Grievance/Complaint Procedures Policy.

### **Review Date**

September 1, 2009

### **Ownership**

Legal Affairs  
Indiana Department of Workforce Development  
10 North Senate Avenue  
Indianapolis, IN 46204

### **Effective Date**

Immediately

### **Action**

Recipients must take action to ensure that the requirements as noted within this communication are implemented. For needed technical assistance, please do not hesitate to contact the U. S. Department of Labor Region 5's Disability and Business Technical Assistance Center at (312) 413-1407. Questions regarding this communication may be directed to Angela Roosa, State Equal Opportunity (EO) Officer, Indiana Department of Workforce Development, Human Resources, 10 North Senate Avenue, Room SE 115, Indianapolis, IN 46204, telephone at (317) 233-8594 or by e-mail at [ARoosa@dwd.IN.gov](mailto:ARoosa@dwd.IN.gov).